



Paper No. 10

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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In re Application of:
Schott
Application No.: 09/464,867
Filed: December 16, 1999
For: A LOUDSPEAKER HAVING A DUAL
CHAMBER ACOUSTICAL ENCLOSURE WITH
TWO EXTERNAL VENTS AND ONE
INTERNAL VENT

DECISION ON PETITION
TO WITHDRAW THE HOLDING
OF ABANDONMENT

This is a response to the request for withdrawal of the notice of abandonment filed on March 8, 2002, and treated appropriately as a petition under 37 C.F.R. §1.181.¹

NOTE: Petitioner's attention is drawn to the caption of the "Petition Under 37 C.F.R. §1.181," transmittal sheet and Amendment, all filed contemporaneously on March 8, 2002, and all bearing an incorrect application number (to wit: 09/464,869) rather than the correct application number of 09/464,867.

The petition is **GRANTED**.

¹ The regulations at 37 C.F.R. §1.181 provide:
§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

The record indicates that:

- the application became abandoned after midnight September 23, 2001, when no proper and timely reply was filed in response to the Notice of Non-Compliant Amendment mailed on August 23, 2001;
- Notice of Abandonment was mailed on February 13, 2002;
- Petitioner evidences with supporting documentation that the Notice of Non-Compliant Amendment mailed on August 23, 2001, likely was not received by Petitioner.

For the reasons stated above: the petition is **granted**; the Notice of Abandonment of February 13, 2002, hereby is vacated; and the holding of abandonment is withdrawn.²

As noted above, Petitioner filed a reply contemporaneously with the instant petition.

The application is to be forwarded to the Examiner for further processing in due course.



James L. Dwyer, Director
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Communications

² No fee is due or charged.